



THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of
Uwe Flessner

Serial No. 10/049,744

Filing Date: May 16, 2002

Attorney Docket No. P-1118

For: METHOD FOR PRODUCING
CATALYSTS BY ACID ACTIVATION

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:Art Unit: 1725
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:Examiner: Christina Ildebrando
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Mail Stop Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

This is a Response to the Office Action of the United States Patent and Trademark Office dated November 14, 2003. In the Office Action the USPTO has requested an election among four groups of claims: Group I comprising Claims 1, 5, 9, 13, 17, 21 and 25, Group II comprising Claims 2, 6, 14, 18, 22 and 26, Group III comprising Claims 3, 7, 10, 15, 19, 23, 24, 27 and 28 and Group IV comprising Claims 4, 8, 11, 12, 16 and 20.

The USPTO asserts that the inventions claimed in Groups I - IV do not contain a "single general inventive concept" and lack the same or corresponding technical features because each group of claims requires activation in the presence of a different metallic ion.

The applicant respectfully traverses this election requirement and asserts that a single common inventive concept exists among all claims. The common inventive concept is not based on the use of specific metal ions, but rather comprises a comprehensive process for the activation of a phyllosilicate by use of an acid in the presence of a catalytically active metal ion. Various metallic ions can be used as the catalytically active metal ion in this process. Use of this process of activation results in surprisingly beneficial effects on the activity of the resulting composition, as is shown in the examples of the application. These surprisingly beneficial effects are not premised on the use of a particular metallic ion, but rather on the overall process of activation itself. The Applicant asserts that this process defines a single embodiment of an invention, as discussed in MPEP 806.03. Accordingly, the applicant asserts that the process of each of the four groups of claims contains a single common inventive concept. The applicant requests that the Examiner reconsider the restriction requirement and determine that no such restriction is necessary.

Notwithstanding, if the USPTO determines that a single general inventive concept does not exist and continues to assert that four separate inventive concepts exist with four separate groups of claims, the applicant elects to prosecute the claims of Group IV, i.e., Claims 4, 8, 11, 12, 16 and 20 with traverse.

If the USPTO continues this restriction requirement, the

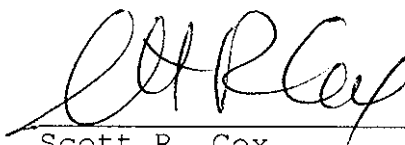
applicant specifically reserves the right to further prosecute any of the subject matter claimed in Groups I - III in a later filed divisional patent application, along with any other subject matter, which is contained in the application that has not already been claimed.

CONCLUSION

The applicant respectfully requests that the USPTO reconsider its position concerning a restriction requirement. Notwithstanding, if the final determination is that all claims, as filed, do not contain a single general inventive concept, the applicant elects to prosecute the claims of Group IV.

If there are any questions concerning this Response, please contact applicant's counsel.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service in an envelope addressed to Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 27, 2004

Holly Nant

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